THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6232 OF 2006

DATED: 31-03-2006

BETWEEN

T. John Milton, S/o. Rajanna,

Age: 40 years, Occ: Business,

R/o. D.No.11-1-624/6/7/A/11/1,

Chilakalguda, Secunderabad.

...PETITIONER

AND

The Commissioner,

Municipal Corporation of Hyderabad,

Circle-7, Secunderabad Zone,

Secunderabad and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the first respondent in not taking steps to prevent the second respondent from encroaching the road margin while erecting the house bearing D.No.11-1-879 and 800, Chilakalguda, Secunderabad in spite of several complaints as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the member of the

Pentecostal Faith Church situated in D.No.11-1-624/6/7/A/11/1, Chilakalguda, Secunderabad and the second respondent is the owner of the house bearing D.No.11-1-879 and 800 admeasuring 100 Sq. yards in the same locality. He further submits that the second respondent without informing the first respondent is constructing a house by occupying an extent of 16 Sq. yards of the public road towards eastern side of petitioner's house. Aggrieved by the same, the petitioner filed a suit in O.S.No.1657 of 2005 on the file of the I Junior Civil Judge, City Civil Court, Secunderabad and the learned Judge appointed an Advocate Commissioner in I.A.No.1754 of 2005. The Advocate Commissioner submitted his report stating that the second respondent encroached an extent of 16.44 Sq. yards of the public road. The learned counsel further submits that the petitioner made a representation before the first respondent on 13.03.2006.

As there is no proof of filing of the said representation and as no endorsement is filed, the petitioner is permitted to file a fresh representation, enclosing the earlier representation said to have been filed, brining to the notice of the first respondent the illegal encroachment of the public road by the second respondent, within ten days from the date of receipt of a copy of this order and on such a representation being filed, the first respondent shall take appropriate action after giving reasonable opportunity to the petitioner as well as the second respondent in accordance with law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 31, 2006

DSK